Claim 50 – 61 were rejected in the Office Action mailed December 10, 2009. Claims 38 – 41 were previously withdrawn from consideration due to a restriction requirement on September 5, 2008. New claims 62 – 64 have been added. Therefore, claims 50 – 64 are pending in the instant application. Applicants have amended claims 50, 54, 55 - 57, 59, and 60. No new matter has been added. Applicants respectfully request that the amendments be entered and that the instant application be reconsidered in view of the amendment and the following remarks.

Claim Rejections - 35 USC §103

On page 3, item 4, of the above-identified Office Action, the Examiner has rejected claims 50 - 61 under 35 U.S.C. §103(a) over US Patent No. 5,442,401 issued to *Murakami et al.* (hereinafter "Murakami"). Applicants respectfully disagree. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. All words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03.

Amended claim 55 recites in pertinent part, a compressor including "a first data storage queue and a second data storage queue coupled to provide the processor separate from uncompressed video image data stored in the first data storage queue, a respective current byte count of uncompressed image data stored in the first data storage queue and separate from compressed image data stored in the second data storage queue, a current byte count of the compressed image data stored in the second data storage queue, to allow the processor to facilitate an adjusting of a target frame

rate." Support for such features may be found in, for example, Figure 3 and accompanying description in the originally filed application. Murakami does not disclose or teach at least the above recitation.

Murakami is directed to a method and apparatus for encoding an image to produce a target information amount. As described in Murakami at col. 12, lines 23 - 25, and shown in Figure 17, image processor 10 "receives the input image data 11 and the decoded data 13 output from a sending side local decoder 12 through a local decode image memory 22 and processes the received data." The processor of Murakami receives the actual input image data 11. It does not receive "separate from uncompressed image data stored in a first data storage queue" a "current byte count of the uncompressed image data stored in the first data storage queue." Nor does it receive "separate from compressed image data stored in a second data storage queue" a "current byte count of the compressed image data stored in the second data storage queue." The image processor 10 "processes the input and either outputs a difference value between the input image data 11 and the decoded data 13 or outputs the input image data 11." Murakami, col. 12, lines 27 – 33. Thus, there is no teaching or suggestion of a "first data storage queue," nor a "second data storage queue" to provide "the processor separate from uncompressed image data stored in the first data storage queue, a respective current byte count of the uncompressed image data stored in the first data storage queue and separate from compressed image data stored in the second data storage queue, a current byte count of the compressed image data stored in the second data storage queue, to allow the processor to facilitate an adjusting of a target frame rate."

Murakami thus fails to teach at least one or more of the limitations in amended claim 55, as required under M.P.E.P. § 2143.03. Accordingly, claim 55 is non-obvious, and is patentable over Murakami. Independent claim 50 contains one or more non-obvious elements similar to amended claim 55 and therefore is likewise patentable over the art. Claims 51 - 54 and 56 - 61 depend on claims 50 and 55, respectively, incorporating their elements. Accordingly, claims 51 - 54 and 56 - 61 are patentable over Murakami for at least the same reasons. Accordingly, Applicants request that the instant §103(a) rejections of claims 50 - 61 be withdrawn.

New claims

New claim 62 recites:

62. A system, comprising:
     a compressor including a processor, and further including:
          a first data storage queue for uncompressed image data; and
          a second data storage queue for compressed image data, the first and the second data storage queue coupled to a codec to allow the codec to compress the uncompressed image data under the control of a bit rate controller including the processor, the processor coupled to adjust a compression algorithm used by the codec to compress the uncompressed image data; and
          a video controller coupled to the processor to determine a capability of the codec to compress the uncompressed image data based on whether a difference between a compression time for a current video frame and a target frame period exceeds a threshold, the determining to facilitate adjusting a target frame rate based at least in part on the compression time.

New independent claim 62 includes in substance at least one or more of the recitations discussed earlier with respect to claim 55. Therefore, for at least the same reasons, claim 62 is patentable over the cited reference. Furthermore, claim 62 includes the recitation of "a bit rate controller including the processor, the processor to adjust a compression algorithm used by the codec to compress the uncompressed image data." At the very least, Murakami does not teach the above recitation.

Claims 63 and 64 depend from claim 62, in addition to adding their own limitations, and therefore for the same reasons that claim 62 is patentable, claims 63 and 64 are likewise patentable over the art.

Conclusion

Applicant submits that claims 50 - 64 are in condition for allowance. Accordingly, a Notice of Allowance is respectfully requested. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1561. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,
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Dated: March 10, 2009   /Linda S. Zachariah/
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